IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 12 OF 2004

IN

WRIT PETITION NO. 6191 OF 2003

Upendra Chandrakant Bhujbalrao ..Appellant.
1/15, Aminabail Chawl, Samarth
Nagar, Bhandup (W), Mumbai.

V/s.

1. University of Mumbai
   Kalina Campus, Kalina, Santacruz,
   Mumbai.

2. The Registrar of the University
   of Mumbai, Fort, Mumbai -1.
3. The Dy. Registrar of University
   of Mumbai, Fort, Mumbai -1 ..Respondents.

Shri N.V. Bandiwadekar i/by Shri L.R. Castelino for the Appellant.
Shri P.M. Palshikar for Respondent Nos. 1 & 3.

CORAM : S.B.MHASE & D.B.BHOSALE, JJ.
DATED : APRIL 27, 2005

ORAL JUDGMENT :-(Per Mhase, J.)

. Heard learned counsel Shri Bandiwadekar, for the Appellant and Shri P.M. Palshikar for Respondents Nos. 1 and 3.

2. This Letters Patent Appeal is directed against

the order dated 10th December, 2003 passed in the Writ Petition No. 6191/2003. The said writ petition had arisen from the proceedings, namely, the Complaint (ULP) No. 1220/1995, decided by the Member Industrial Court, Mumbai. It was a complaint under Item Nos. 1, 5 & 6 of Schedule IV of the MRTU & PULP Act. The Industrial Court dismissed the said complaint. Therefore, the appellant had approached the Single Judge of this Court. The Single Judge has thoroughly considered the case and has rejected the petition with the observations that "In the event any work is available for the Petitioner to be appointed, Respondent University may consider the case of the Petitioner sympathetically."

3. This order is under challenge before us. It is an admitted position that the Petitioner/ Appellant was working in leave vacancy on temporary basis and therefore, his appointment was on adhoc basis. Before the selection committee he was not selected. Shri Bandiwadekar fairly conceded that there is no case on merits. However, he submitted that the Appellant had worked as Peon with the Respondent University from 1984 onwards, intermittently till 1995. He submitted that in a year, he has completed 240 days and entitled

to get permanency. The case of the appellant is that whenever the post is available, his case may kindly be considered. To that aspect also the learned Judge has made a reference. But since it is fairly conceded by the learned counsel for the appellant, that there is no case on merits, we have every sympathy in favour of the appellant. We, therefore, dispose of this Letters Patent Appeal with the observation that whenever a post in open category is available with the University, the claim of the appellant for the post of Peon be considered by the University sympathetically except on the ground of age, if other qualifications are satisfied.

4. Letters patent appeal is disposed of in the above terms.

(D.B. BHOSALE,J) (S.B.MHASE, J)

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